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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/425,410	10/25/1999	MOOL CHAND GUPTA	1301(SURA)	9520

7590

12/04/2001

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EXAMINER

PATEL, VIP

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 12/04/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/425,410

Applicant(s) GUPTA ET AL
X

Examiner
Vip Patel

Art Unit
2879



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above, claim(s) 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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Election/restriction

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-16, drawn to a product of a solid diamond emitter, classified in Class 313, subclass 309.

II. Claim 17, drawn to a gas analyzer, classified in Class 250, subclass 281.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions of group I describe a solid diamond emitter used in a field emitter extractor gauge deemed separate and distinct from group II which recites a residual gas analyzer. The applicant's disclosure does not disclose intention of use together of extractor gauge and residual gas analyzer (line 20 of page 7 through line 7 of page 8). Neither there is an obvious suggestion to an ordinary skilled artisan to use the invention together since utilizing an extractor gauge with a gas analyzer holds no obvious advantage. Further, residual gas analyzer of group II has separate and different function from the extraction gauge. Namely, group II operates to detect and analyze trace or residual gas elements in a sample whereas the extraction gauge operates as an indicator of vacuum condition.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, because of their recognized divergent subject matter, and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Auzville Jackson on 11-18-0, a provisional election was made without traverse to prosecute the invention of I, claims 1-16. Affirmation of this election must be made by applicant in responding to this Office action. Claim 17 stand withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

Drawings

The drawings are objected for following reasons.

The drawings must show every feature of the invention specified in the claims (see 37 CFR 1.83a). The claimed section of diamond that is thickness must be shown in the drawings (applicant is requested to point out, in the figures, a length which is considered a thickness).

Claim Rejections - 35 USC § 112

Claims 1-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 1 and 16, the applicant claims that the thickness of the diamond is more than 5u. It is not clear at all as to which distance exactly, the applicant claims to be thickness. Is the thickness a length from a tip to a base of the diamond or from one end of the base to second end of the base? For clearer understanding, as to what is considered a thickness, the applicant is requested to point out this thickness in the drawings.

Regarding claims 1-16, claims 1-16 are informal (see rejection of claims under 35 USC 112, second paragraph) that no meaningful examination on the merits of the claims can be undertaken at this time. See MPEP 702.01.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vip Patel whose telephone number is (703) 305-4846. The examiner can normally be reached on Tuesday-Thursday during regular working hours. The fax phone number for this Group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.


VIP PATEL
PRIMARY EXAMINER
ART UNIT 2879